

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA

BONITA PERRY,)	CIVIL ACTION
)	
Plaintiff,)	NO.: 00-1193
)	
vs.)	FILED ELECTRONICALLY
)	
PENNSYLVANIA STATE POLICE,)	
COMMONWEALTH OF)	
PENNSYLVANIA,)	
)	
Defendant.)	

RESPONSE TO PLAINTIFF'S MOTION TO REOPEN

AND NOW, comes the Defendant, Pennsylvania State Police, Commonwealth of Pennsylvania, by and through its attorneys, Patrick J. Stapleton, III, Esquire, Deborah A. Kane, Esquire and the law firm of Weber Gallagher Simpson Stapleton Fires & Newby LLP, and files the following Response to Plaintiff's Motion to Reopen:

1. Admitted.
2. Admitted in part and denied in part. It is admitted that a Motion was filed. It is denied that the cases cited by Plaintiff stand for the propositions Plaintiff contends.
3. Admitted.
4. Admitted.
5. Admitted. It is also noted that the Allegheny County action was dismissed on December 21, 2007. Plaintiff did not appeal that Order.
6. Admitted.
7. Admitted.
8. Admitted, although the filing date was January 8, 2006, not January 10, 2006.
9. Admitted, although the filing date was May 29, 2006, not June 1, 2006.

10. Admitted.

11. Admitted.

12. Admitted.

13. Admitted.

14. Admitted.

15. Admitted. Defendant filed a Motion to quash this appeal, and it has recently been dismissed by the Superior Court.

16. Admitted.

17. Admitted.

18. Admitted.

19. Denied. Defendant denies that this matter may be reopened, as the request to reopen has not been made in conformance with the requirements of Federal Rule of Civil Procedure 60(c). The order of December 21, 2000 was a final Order which was not appealed. Plaintiff has done nothing since December 21, 2000, **over seven years ago**, to seek reopening of this matter. As set forth in Rule 60(c), Plaintiff had to file a motion to reopen within one year of the order or judgment at issue. Plaintiff failed to do that, nor did she even file within one year of when the "new law" she relies on was handed down.

20. Denied.

21. Admitted in part and denied in part. It is admitted that Plaintiff has filed a Motion seeking relief. It is denied that such relief should be granted.

WHEREFORE, Defendant requests that this Court deny Plaintiff's Motion.

Respectfully submitted,

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Attorneys for Defendant, Commonwealth of
Pennsylvania, Pennsylvania State Police

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing RESPONSE TO PLAINTIFF'S MOTION TO REOPEN has been served via electronic filing this 3rd day of April, 2008 upon the following party:

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/s/ Patrick J. Stapleton
Patrick J. Stapleton, Esquire

/s/ Deborah A. Kane
Deborah A. Kane, Esquire